

on lowering tariffs was accomplished in the sixth GATT-sponsored MTN, the Kennedy Round, which lasted from 1964 to 1967. Not only were duties cut on average by 36 percent, but the cuts were spread over the broadest set of products to date--some cut in tariff being made on almost 80 percent of all dutiable imports. Much of the success of this round is attributable to the employment of a negotiating procedure that initially cut all tariff rates automatically by 50 percent.<sup>15/</sup> After that, the parties negotiated sectoral and product-by-product exemptions.

The Kennedy Round was also important because, for the first time, an agreement was reached to resolve conflicts over nontariff barriers. It took the form of an Antidumping Code and an agreement to eliminate the U.S. system of American Selling Prices.<sup>16/</sup> Although the Congress blocked both of these, they were accepted in the next MTN.

One major economic sector, agriculture, was not a part of these liberalization efforts. A waiver that permitted broad quantitative restrictions on agricultural products was granted the United States in 1955, and this served as a precedent for other countries to protect their agricultural sectors as well. Also, developing countries, which have played a minor role in GATT negotiations, did not reduce their trade barriers over this period.

### The Tokyo Round

During the late 1960s, economic growth abated and inflation surged. Relatively high U.S. inflation, along with fixed exchange rates, caused the dollar to appreciate significantly in real terms. The resulting deterioration in the U.S. trade accounts led to the breakdown of the fixed exchange rate system

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15. A 50 percent linear cut emerged after a spirited debate about the merits of a linear versus a harmonized formula for cuts. Harmonization cuts higher tariff rates by a greater percentage than lower rates, pushing overall rates toward the average. Representatives of the European Community argued that the U.S. tariff schedule included a larger amount of above-average tariffs than did that of the EC, yielding significant protection to these products. EC tariffs tended to be more even because, during the formation of the EC, the common external tariff was calculated by averaging the tariffs of each member country.
  16. The American Selling Price (ASP) system applied a tariff rate for certain imports to a dutiable value set artificially high to equal the price of a competing good produced domestically instead of to the import's actual invoice price. ASP was applied to a relatively small portion of total imports, mainly benzenoid chemicals and rubber footwear.

in 1971. The high real value of the dollar exacerbated a U.S. decline in world markets as Europe regained competitiveness and as Japan and developing countries became competitive. U.S. producers lost ground not only in foreign markets, but also in many domestic markets.

The economic and political environment during this time, especially after the tripling of oil prices by OPEC in 1973, was more conducive to expanding protection rather than reducing it. Nevertheless, in 1974 the Congress provided the President with authority to enter the Tokyo Round of multilateral negotiations to liberalize trade policy.<sup>17/</sup> This act gave the President power to cut all tariffs by up to 60 percent (and to eliminate rates under 5 percent). The Congress also directed the President to negotiate agreements with other countries on nontariff barriers, recognizing their increasing use throughout the world. Unlike tariff reductions, though, any agreement on nontariff barriers had to be approved by majority votes in both the House and the Senate.

The major accomplishment of the Tokyo Round may have been to restrain major increases in protection. Nevertheless, the negotiations succeeded in lowering tariff rates for many goods and in producing a number of agreements on codes of conduct for nontariff barriers.

Tariff Reductions. Average U.S. tariff rates were again reduced by almost one-third, from about 6 percent to about 4 percent on dutiable imports, using a compromise automatic formula with some harmonization effect<sup>18/</sup>. Average U.S. tariff rates for industrial products were cut from 6.4 percent to 4.4 percent, while average tariffs on industrial products in the European Economic Community and Japan were cut from 6.6 percent to 4.7 percent, and from 5.5 percent to 2.8 percent, respectively (see Table 3). Nevertheless, each country excluded a number of key products from any tariff reduction. Table 4 shows the average Tokyo Round tariff cuts by broad industrial groups for the United States, the EC, and Japan. Although it is

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17. The 1974 Trade Act followed a failed attempt to produce a trade bill with GATT authorization in 1972. The compromise that generated the 1974 act included provisions that made it easier for industries to receive trade adjustment assistance benefits and to obtain affirmative rulings for escape clause actions. Also, a new trade policy tool, provided under Section 301 of the act, gave the President the power and obligation to initiate unilaterally negotiations to reduce foreign trade barriers that restricted U.S. exports. Reciprocity in the form of retaliation could be employed if foreign governments did not appropriately cooperate.

18. As had been done in most previous rounds to reduce domestic adjustment costs, these cuts were phased in over time. In this case, the phase-in period was eight years, beginning in 1980.

TABLE 3. TOKYO-ROUND TARIFF CUTS BY STAGE OF PROCESSING FOR THE UNITED STATES, THE EUROPEAN COMMUNITY, JAPAN, AND CANADA (In percent)

Country and Period	All Industrial Products	Raw Materials	Semi-Manufactures	Finished Manufactures
United States				
Rates Before Tokyo	6.5	0.9	4.5	8.0
Rates After Tokyo	4.4	0.2	3.0	5.7
Percent Cut	31	77	33	29
European Community				
Rates Before Tokyo	6.6	0.2	5.1	9.7
Rates After Tokyo	4.7	0.2	4.2	6.9
Percent Cut	29	15	27	29
Japan				
Rates Before Tokyo	5.5	1.5	6.6	12.5
Rates After Tokyo	2.8	0.5	4.6	6.0
Percent Cut	49	67	30	52
Canada				
Rates Before Tokyo	13.6	1.0	14.8	13.8
Rates After Tokyo	7.9	0.5	8.3	8.3
Percent Cut	42	48	44	40

SOURCES: Director General of GATT, *The Tokyo Round of Multilateral Trade Negotiations, Volume II Supplementary Report* (Geneva, 1980), p. 33; and the Congressional Budget Office.

hard to estimate the protective impact of changes in nominal tariffs, post-Tokyo Round tariffs remain above 7 percent for a number of industries in each country, most notably for textiles, apparel, and footwear. <sup>19/</sup>

19. Nominal tariffs increase the price of imports relative to domestically produced goods. The protective impact, however, is measured by how the quantity and price of imported and domestically produced goods change in response to a change in tariffs. This response depends most importantly on the reaction of consumers to changes in the relative prices of the imported goods and their domestic substitutes (price elasticities) and on the levels of tariffs on final goods compared to the levels of tariffs on intermediate inputs (the effective rate of protection).

TABLE 4. TOKYO-ROUND TARIFF CUTS BY INDUSTRY FOR THE UNITED STATES,  
THE EUROPEAN COMMUNITY, AND JAPAN (In percent)

	Pre-Tokyo-Round Tariff Rates			Post-Tokyo-Round Tariff Rates			Percent Cut		
	U.S.	EC	Japan	U.S.	EC	Japan	U.S.	EC	Japan
Agriculture, Forestry, and Fisheries	2.2	7.1	18.4	1.8	4.9	18.4	-18	-31	0
Food, Beverages, and Tobacco Products	6.3	12.4	25.4	4.7	10.1	25.4	-25	-19	0
Textiles	14.4	9.8	3.3	9.2	7.2	3.3	-36	-27	0
Wearing Apparel	27.8	16.8	13.8	22.7	13.4	13.8	-18	-20	0
Leather Products	5.6	3.7	3.0	4.2	2.0	3.0	-25	-46	0
Footwear	8.8	11.7	16.4	8.8	11.6	15.7	0	-1	-4
Wood Products	3.6	3.3	0.3	1.7	2.5	0.3	-53	-24	0
Furniture and Fixtures	8.1	8.5	7.8	4.1	5.6	5.1	-49	-34	-35
Paper and Paper Products	0.5	7.3	2.1	0.2	5.4	2.1	-60	-26	0
Printing and Publishing	1.1	3.2	0.2	0.7	2.1	0.1	-36	-34	-50
Chemicals	3.8	11.5	6.2	2.4	8.0	4.8	-37	-30	-23
Petroleum and Related Products	1.4	1.2	2.8	1.4	1.2	2.2	0	0	-21
Rubber Products	3.6	5.3	1.5	2.5	3.5	1.1	-31	-34	-27
Nonmetallurgical Mineral Products	9.1	5.2	0.6	5.3	3.7	0.5	-42	-29	-17
Glass and Glass Products	10.7	9.9	7.5	6.2	7.7	5.1	-42	-22	-32
Iron and Steel	4.7	6.2	3.3	3.6	4.7	2.8	-23	-24	-15
Nonferrous Metals	1.2	2.6	1.1	0.7	2.1	1.1	-42	-19	0
Metal Products	7.5	7.9	6.9	4.8	5.5	5.2	-36	-30	-25
Nonelectrical Machinery	5.0	6.5	9.1	3.3	4.4	4.4	-34	-32	-52
Electrical Machinery	6.6	9.9	7.4	4.4	7.9	4.3	-33	-20	-42
Transport Equipment	3.3	10.2	6.0	2.5	8.0	1.5	-24	-22	-75
Miscellaneous Manufactures	7.8	7.7	6.0	4.2	4.7	4.6	-46	-39	-23

SOURCES: Alan Deardorff and Robert Stern, "The Effects of the Tokyo Round on the Structure of Protection," in Robert Baldwin and Anne Krueger, eds., *The Structure and Evolution of Recent U.S. Trade Policy* (Chicago: University of Chicago Press for the National Bureau of Economic Research, 1984), pp. 370-375; and the Congressional Budget Office.

NOTE: Average tariff rates are calculated using own-country import weights over each country's detailed tariff schedule. Post-Tokyo-Round rates are being phased in over an eight-year period that began in 1980.

Even though the average tariff across all imports is relatively low for the major developed countries, grouping average tariffs by stage of processing (see Table 3) shows that tariff rates are significantly higher for final products than for raw materials. Such "tariff escalation" provides protection to manufacturing processes often far in excess of the nominal tariff rate on the good in question.<sup>20/</sup> Although average tariff rates have been reduced steadily over the last two MTNs, tariff escalation remains an important distortion of trade for several major sectors in the developed countries, an issue of particular interest to developing countries.

Codes of Conduct for Nontariff Trade Policies. The Tokyo Round was distinguished most clearly from previous MTNs by its success in negotiating a series of agreements (codes of conduct) to regulate how governments apply a number of nontariff trade policies. Many of these codes extend or refine obligations implied in GATT articles, but which were the subject of dispute as governments interpreted the GATT rules to their own advantage. Codes of conduct were established for the following government policies: anti-dumping rules, subsidies and countervailing measures, government procurement practices, customs valuation, technical standards, and import licensing. Additionally, nontariff barriers were liberalized in two product categories--civil aircraft and several types of agricultural trade, mainly for meat and cheese. Dispute settlement procedures were installed for each of the major codes. After much debate, no agreement was reached on safeguards for domestic industries (the U.S. escape clause). Late-starting negotiations on commercial counterfeiting policy were not concluded.

The Tokyo Round grappled with many of the problems associated with unfair trade practices and other impediments to "trading on a level playing field." Most prominent was the issue of subsidies, especially export subsidies. Almost all governments subsidize domestic producers to some degree. Most domestic subsidies--such as those for education, for assistance to low-income regions of a country, or for research and development--attack internal social and economic problems. Other subsidies explicitly favor exports or domestic producers of import substitutes. As economies become more open

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20. For example, if the tariff on a final good is 5 percent, but the tariff on intermediate inputs to the production of that good is zero, then (assuming that intermediate goods make up about 50 percent of the total production cost of the final good) the effective rate of protection for the production of the domestic good is 10 percent. That is, domestic producers can produce--add value to--at up to 10 percent higher costs than foreigners because of the above structure of protection. Note that consumers still pay only 5 percent more for the final good. See W.M. Corden, *The Theory of Protection* (New York: Oxford University Press, 1971), for the classic examination of effective rates of protection.

to foreign trade, the distinction between domestic and foreign trade subsidies becomes increasingly blurred.

The subsidy code clarified and modestly strengthened GATT rules, stated in articles III, VI, XVI, and XXIII, which permit subsidies "for the promotion of social and economic policy objectives," but which discourage those that impinge on trade. The code established criteria to help differentiate between a domestic and an export subsidy. Export subsidies for non-agricultural products were prohibited.<sup>21/</sup> Almost any domestic subsidy that treats domestic and export activities equally is allowed, but policies that injure foreign producers should be avoided.<sup>22/</sup>

When export subsidies are found to injure producers in another country, countervailing duties can be applied by the offended country to offset the impact of the subsidy. The code established two criteria--validation of an export subsidy and proof of material injury to a domestic industry--that must be satisfied before countervailing duties can be implemented.<sup>23/</sup> The size of the countervailing duty cannot exceed the amount of the subsidy. It is not meant to be retaliatory, but only to offset the export subsidy.

The subsidy code extends GATT's prohibition of export subsidies to include not only trade in manufactured goods but also, for the first time, raw material trade. The rules are to be applied fully for trade in minerals. For agricultural trade, export subsidies are tolerated, but should not allow the exporting country to gain "more than an equitable share of world export trade," and subsidized products should not be sold below the going market price.

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21. Subsidized export financing arrangements are not covered by GATT. Such actions by developed countries are covered by agreements of the Organization for Economic Cooperation and Development. Also, input subsidies for downstream export industries, often for natural resources, are not covered by GATT.
  22. Once it is agreed which subsidies are prohibited by GATT, the use of these actions must still be halted. Distinction is made in this debate between prohibiting the use of illegal nontariff trade barriers, and stopping only those illegal practices that cause injury to offended countries. By requiring injury tests, many insignificant cases (especially from small developing countries) can be filtered out of the process so that attention is concentrated on the most onerous actions. By sanctioning petty offenses, however, overall GATT discipline is threatened. For a thorough examination of subsidies in international trade, see Gary Hufbauer and Joanna Shelton Erb, *Subsidies in International Trade* (Washington, D.C.: Institute for International Economics, 1984).
  23. This subsidy code forced the United States to add an injury test for its countervailing duty cases. Injury tests now consider changes in both the quantity and prices of imports and similar domestic products ensuing from the foreign subsidy. The prohibition of export subsidies should have the greatest impact on other countries, which tend to use export subsidies more aggressively than the United States.

The Tokyo Round antidumping code sharpened article VI of the General Agreement by clarifying the standard for determining injury and by establishing an international dispute settlement procedure. The antidumping code, like the subsidies code, allows antidumping duties matching the dumping margin when foreign firms sell their products below normal prices in foreign markets. <sup>24/</sup>

The government procurement code requires that firms of other signatory countries be treated no less favorably than domestic firms when governments purchase goods. The equal treatment obligation applies only to those government entities specified in the Agreement, and governments bargained over which entities were to be included. Most importantly, national defense purchases were excluded. Also, procurement should be conducted in an open and transparent way.

Many countries apply technical standards to products before they can be sold. These standards, such as labeling, safety, pollution, and quality requirements, are also applied to imports. The standards code states that governments should apply these standards in a way that does not discriminate against imports.

The customs valuation code dictates that the dutiable value of imports be based in general on their actual transactions prices. This updates obligations spelled out in article VII of the General Agreement (on Valuation for Customs Purposes). One important aspect of this code is that it forced the United States to stop using the American Selling Price technique. The import licensing code makes the process of obtaining import licenses transparent and not overly burdensome.

Codes of Conduct Procedures. In negotiating the codes of conduct for non-tariff barriers, the Tokyo Round also established a set of guidelines for administering them. The codes stress the regulation of specific government policies; they do not provide a framework for actually liberalizing these trade barriers on a product-by-product basis. In this sense they differ fundamentally from the approach used successfully to reduce tariffs. GATT's

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24. The technicalities of determining when firms sell products below normal prices are notoriously complicated. Common definitions of dumping include selling in foreign markets at lower prices than in domestic or third-country markets, or charging prices below production costs. Dumping by exporters from non-market economies, or state-owned enterprises in general, poses special problems, since the relationship between costs and prices is often not known.

tariff reductions emphasized product-by-product liberalization on a reciprocal basis across all products, using rules to reinforce, but not lead, the liberalization process. Implementation of the codes, however, relies mainly on good-faith compliance by the signatories to each code.

When one country questions the good-faith compliance of another country in nontariff issues, the codes set forth dispute settlement procedures to help resolve the differences. These procedures operate along the same principles as those generally available under the provisions of the General Agreement, stressing passive oversight and adjudication of legal issues by panels.

During the Tokyo Round, negotiations on nontariff barriers were separated from the negotiations on tariffs. Separate working groups were established for each nontariff issue, most taking several years to complete their work. Final agreement on each code was based on code reciprocity, a restricted form of conditional most-favored-nation treatment. Under code reciprocity, each country could choose whether to sign the code and agree to abide by the code's discipline. Countries that did not sign a code were sometimes excluded from the benefits of the code, but they were not generally penalized in other parts of the negotiations. Almost all developed countries signed these codes, while most developing countries did not.<sup>25/</sup>

It is difficult to assess the effectiveness of the codes of conduct, since this depends on changes in policies and government actions that are hard to monitor or quantify.<sup>26/</sup> The prevailing level of conflict between countries over these nontariff barriers suggests that the codes have not significantly

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25. In order to induce developing countries to sign the various codes, those countries were exempted from the immediate prohibition on export subsidies and from limitations on many other nontariff barriers, including government procurement rules. But these exemptions were contingent on guarantees that such practices would be phased out over time. Most developing countries opted not to sign the codes initially, though many subsequently signed the subsidies code. They signed that code because, since an injury test was not required for the application of countervailing duties to export subsidies of nonsignatories, they were not protected when the United States threatened to place countervailing duties against export subsidies for textile and apparel products, even though most developing country exports were not large enough to cause material injury to the U.S. industry.
26. See Robert M. Stern, John H. Jackson and Bernard M. Hockman, *An Assessment of the Implementation and Operation of the Tokyo Round Codes*, Thames Essay No. 55 (Aldershot, New York: Gower for the Trade Policy Research Centre) for an assessment of the Tokyo Round Codes.

restrained the use of such barriers. The Tokyo Round codes probably can be best viewed as the beginning stage in a long process of developing common ground, and eventually some discipline, in this area. Most of the codes, especially the subsidies code, will be reassessed in the Uruguay Round.

### LOOKING AHEAD: THE URUGUAY ROUND AGENDA

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Trade ministers from over 90 countries joined in consensus last September to issue the Punta del Este Declaration, launching the Uruguay Round of trade negotiations. Included in this declaration are a list of agenda items and several negotiating procedure agreements. To a greater degree than in the past, this declaration stresses the need to control better the use of nontariff barriers and to expand GATT discipline to nonmanufacturing products, most importantly to trade in agriculture and services.

Each of the major negotiating groups will approach the Uruguay Round from a different perspective. The United States has been the driving force behind the negotiations, seeking to open foreign markets to its exports and to limit foreign subsidies of imports into its home market. Consequently, the United States has insisted that the agenda include efforts to open agricultural and service markets, protect intellectual property rights, and limit export subsidies. These goals would require major concessions by the European Community, Japan, and many developing countries. For any concession in agriculture, the EC wants equivalent reductions in what it perceives as U.S. farm subsidies. Japan, which has manufacturing trade surpluses with almost every trading partner, has taken a much more defensive stance, attempting to maintain the status quo.

Care was taken in the Punta del Este Declaration to maintain the developing countries' traditional nonreciprocal role. But since many of the issues concern policies frequently used by developing countries, especially newly industrialized countries, those countries are expected to become more involved than they were in past negotiations. Developing countries demand more open access to U.S. markets for natural resources and manufacturing, especially for many labor-intensive products such as apparel and electronics.

The Uruguay Round is expected to be the most difficult of all the rounds. Most nuisance trade barriers (that have little impact on trade flows) in developed countries have been eliminated. Significant trade policy reform now implies changes in national policies that have often been in place for many years and have strong domestic constituencies. The agenda can be separated into three groups of issues: those that have been discussed in previous GATT rounds; those being negotiated for the first time; and issues of concern to developing countries.



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### Agenda Items With a Negotiation History

The dimensions of problems previously addressed are likely to be reasonably clear early in the negotiations, although the legacy of unresolved conflict presents difficulties. Hope for breakthroughs arises from the burdens that many of these policies impose on governments and consumers. Multilateral reforms, offering reciprocal benefits, may make major domestic policy reforms more palatable.

Barriers to Agricultural Trade. Despite considerable effort, previous rounds have done little to reduce government interference in the production and trade of agricultural products. As described in Chapter IV, import barriers or export subsidies in agricultural trade are often associated with domestic policies to support farm prices and incomes. Thus, any reform in agricultural trade implies changes in those domestic policies. For this reason, the negotiations will focus on the farm policies of the three largest agricultural markets in the free world, the United States, the European Community, and Japan. The United States and the EC, at great expense, subsidize and protect domestic production. All three restrict agricultural imports, most notably Japan. Other exporters, such as Canada and Australia, have relatively open agricultural policies, and complain that GATT does not recognize the rights of agricultural exporters who are seriously affected by the policies of rival exporters such as the United States and the EC.

Barriers to Trade in Tropical and Natural Resource Products. Trade in tropical and natural resource products receives special attention in the GATT negotiations because commodities such as coffee, rubber, tin, and copper make up a large proportion of total exports for many developing countries. Previous rounds have reduced developed-country tariffs on many of these products, but protection remains in some areas, especially for sugar and for commodities in the early processing stages. Developing countries see the elimination of all trade barriers on tropical and natural resource products, both raw and semiprocessed, as essential to their continued development.

Tariff Reductions. While average tariff rates in developed countries have been reduced dramatically in past rounds, they are still significant in a number of sectors, especially when the protective impact of tariff escalation is taken into account. (Table 4 shows the current, post-Tokyo Round average tariff rates by economic sector for the United States, the EC, and Japan.) Moreover, tariff protection in many developing countries is exten-

sive. The major goal of the tariff negotiations will be to reduce tariff rates that are disproportionately higher on final products than on the raw materials used by domestic manufacturers (to harmonize tariff schedules) while continuing to reduce overall tariff rates in developed countries.<sup>27/</sup> In many cases, major tariff reductions in particular sectors may be addressed in conjunction with efforts to lower nontariff barriers in those sectors. Considerable pressure will be exerted on newly industrialized countries to offer some tariff concessions in return for tariff cuts by developed countries.

Nontariff Barriers to Trade. Some nontariff barriers are relatively straightforward, as in the case of explicit import and export quotas, orderly marketing agreements, and voluntary export restraints. Others--including various financial subsidies, government procurement practices, and export targeting--are often less obvious. By basic GATT principles NTBs are recognized as particularly damaging forms of protection, but GATT has been unable to persuade member governments to discontinue them.<sup>28/</sup>

At a minimum, the negotiations will attempt to make nontariff barriers more transparent and to hold existing ones at current levels. In some cases, new rules will be devised to regulate such practices. Since many existing NTBs are used to protect certain industries, meaningful reform of these will likely depend on sectoral negotiations and some tradeoff of reciprocal concessions across sectors. On a more technical level, rules may be developed to regulate the use of orderly marketing arrangements and voluntary export restraints, which are currently outside the purview of GATT discipline.

A Code of Conduct for Escape-Clause Procedures. Escape-clause actions, a type of safeguard, allow governments to suspend GATT rules temporarily in order to protect domestic producers from injury resulting from surges in imports. Qualification for escape-clause relief requires proof that a domestic industry has sustained serious injury from increases in imports. No proof of unfair trade practices is needed. GATT rules acknowledge the right of

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27. The negotiations to lower tariffs may be limited until a major effort to harmonize tariff classifications among countries is completed in 1988.

28. For a good survey of nontariff barriers employed by the United States, Canada, and Japan, see Gary Saxonhouse and Robert Stern, "An Analytical Survey of Formal and Informal Barriers to International Trade and Investment in the United States, Canada and Japan," paper presented at the Conference on U.S.-Canadian Trade and Investment Relations with Japan, Ann Arbor, Michigan, April 2-3, 1987.

countries to use the escape clause to justify increases in protection, but offer little guidance on how escape-clause actions should be administered. As a result, escape-clause standards and procedures vary considerably among countries. Many governments--especially those of developing countries--claim that escape-clause actions in developed countries substitute protection for market adjustment, particularly in response to chronic shifts in comparative advantage. Also, the increasing use of such remedies as voluntary export restraints and orderly marketing agreements raises the fear that developed countries will increasingly resort to managed market schemes instead of competition to determine trade flows in key sectoral markets.

During the Tokyo Round, efforts to put together a code of conduct for escape-clause procedures were unsuccessful.<sup>29/</sup> Standardizing the escape-clause process will require rules for determining when imports are the cause of injury; what constitutes serious injury; what should be the appropriate length and form of the remedy (including whether remedies can be applied selectively to some, but not all importers of a product); whether the domestic industry should be required to make any adjustments; and how such determinations are to be made.

A Reassessment of the Tokyo Round Codes of Conduct. Several of the codes of conduct for nontariff barriers that were instituted during the Tokyo Round will be reassessed during the Uruguay Round. Governments perceive that many of the trade policies that these codes were designed to eliminate have continued unabated. They complain about the vagueness of the rules and the general impotence of the GATT dispute settlement process. Dissatisfaction is most apparent over the subsidies code.<sup>30/</sup> Part of this frustration is directed at subsidies in sectors that the codes were not intended to affect, most importantly agriculture and services. More funda-

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29. The major stumbling block to an agreement was whether trade policy remedies mandated by safeguard procedures could be applied selectively to some, but not all, exporters of a product. Selectivity violates the GATT principle of most-favored-nation treatment. The EC favored selectivity, but Japan and many developing countries feared that they would be the countries most often selected against. Current United States policy uses some selective remedies. For an overview of current U.S. import procedures, see U.S. International Trade Commission, *Summary of Statutory Provisions Related to Import Relief*, USITC Publication 1972 (Washington, D.C., April 1987).

30. It is this frustration that has led the United States to increasingly use the powers provided by Section 301 of the 1974 Trade Act, which authorizes the President to open negotiations to stop foreign trade barriers to U.S. exports. Section 301 actions generally operate outside of GATT's jurisdiction.

mentally, though, there is disagreement over when permissible domestic subsidies, including government procurement and state-owned enterprise activities, cross over to become detrimental export subsidies and import barriers.<sup>31/</sup>

Generally stricter rules for these government actions may resolve some problems, but general rules are not likely to be flexible enough to take account of special conditions in some sectors. To overcome this deficiency, sectoral negotiations may be most productive. Product-by-product negotiations would also offer the potential for tangible concessions negotiated on a reciprocal basis across sectors and countries.<sup>32/</sup>

Institutional Strengthening of GATT. The primary role of GATT in the world trading system is to facilitate trade liberalization over time. The rules and principles in the General Agreement represent consensus agreements by members on how governments should carry out trade policy. By most accounts, GATT has been a successful forum for major reductions in tariff protection. The Uruguay Round will debate how GATT can evolve into its next stage--when it can come to grips with nontariff barriers. A strengthening of GATT's role in regulating such trade practices will depend fundamentally on the member countries. To change the present system of passive enforcement into a more aggressive policing of stricter rules would require a significant transfer of power from member countries to GATT. An intermediate position would be for member countries to enact some GATT rules into domestic law.

### New Issues

New issues in the Uruguay Round pose many of the same problems as the others, but with the additional burden that the dimensions of these problems

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31. Governments subsidize domestic producers in many ways. Increasingly, though, a broad range of government programs--including educational, manpower, and financial assistance and regulation--affect foreign trade flows. As international competitiveness depends more and more on technological innovation and highly skilled work forces, many infrastructural policies that have been traditionally considered purely domestic matters now are viewed as matters related to international competitiveness. Moreover, consolidated government programs targeted at specific industries can affect competition between countries even where these programs do not explicitly subsidize exports.
  32. See Robert E. Baldwin, "Alternative Liberalization Strategies," Working Paper No. 2045, National Bureau of Economic Research, October 1986, for a more detailed examination of the benefits of product-by-product multilateral negotiations to reduce nontariff barriers.



are not well understood, both because of inadequate data and for lack of clear analysis. In many cases, the parties have not yet formulated detailed positions. Negotiations on some of these issues should be expected to take at least several years.

Barriers to Trade in Services. At the insistence of the United States, barriers to international trade in services will be dealt with for the first time by GATT during the Uruguay Round. Regulating government policies that affect trade in services introduces a number of new problems. Data on service trade flows are inadequate to guide negotiators. Barriers to service trade are closely linked to domestic federal and state regulation in such politically sensitive areas as labor (immigration); investment, finance, and banking; national security; and health and safety rules. Finally, services span such a broad range of economic activities that liberalization can have very uneven effects on different types of services.

Intellectual Property Rights. These rights involve most importantly copyright, patent, and counterfeiting protection for both goods and services. Since intellectual property, such as new technologies or artistic work, is often easy to duplicate, such rights can be protected only by laws.

Among developed countries, a series of agreements exist outside of GATT protecting most intellectual property rights. Efforts will be made during the Uruguay Round to incorporate these arrangements into the GATT framework. Much of the conflict over this issue relates to actions by developing countries, which have resisted such limitations on the ground that they are an unfair deterrent to the transfer of technology.

Investment Restrictions and Trade. Laws restricting foreign investment often affect international trade in goods and services. A firm's ability to compete in a foreign market sometimes hinges on the opportunity to establish subsidiary operations in that market, especially where close buyer-seller relationships are required. National restrictions on foreign investment commonly include: provisions limiting foreign ownership participation or prohibiting the establishment of foreign operations altogether; performance requirements that force subsidiaries to export certain amounts of their output, or to use certain amounts of domestic inputs; and prohibitions on currency conversion. Both developed and developing countries restrict foreign investment. Governments, both bilaterally and in bodies such as the Organization for Economic Cooperation and Development, have negotiated agreements monitoring policies that inhibit foreign investment flows. But such restrictions remain commonplace. Since the Uruguay Round will represent the first GATT-sponsored attempt to deal with investment-related trade issues, much of the initial effort will likely be in cataloging and analyzing the problem, and then developing some common ground for negotiations.

### The Uruguay Round and Developing Countries

An important set of issues concerns developing countries, especially the newly industrializing countries (NICs). Although the integration of developing countries into GATT negotiations and discipline is not a formal issue on the agenda for the Uruguay Round, it may prove to be one of its most important contributions. <sup>33/</sup>

Special Treatment for Developing Countries. Developing countries generally face constraints on growth that are different from those of developed countries. They may need to develop their economic, social, and political infrastructures concurrently, making them both reliant on and vulnerable to foreign influences. To pay for the financial and physical capital, and the technology, that are vital to the development process, they must earn foreign exchange by exporting commodities and (increasingly) manufactured goods to developed countries. To overcome this foreign exchange constraint, developing countries often seek to stimulate exports and manage imports as an integral component of their development strategies. As a result, they tend to rely more on aggressive trade policies and access to foreign markets than do developed countries. <sup>34/</sup>

The General Agreement takes account of these special circumstances by its treatment of developing countries, effectively exempting them from most of the discipline of GATT. <sup>35/</sup> Developing countries have not been expected to provide reciprocal concessions for tariff reductions by developed countries, and have not been seriously penalized for government policies that violate GATT rules. Since developed countries have less incentive to reduce trade barriers on products supplied principally by developing

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33. For a good overview of problems facing the United States and developing countries in new trade negotiations, see Ernest Preeg, ed., *Hard Bargaining Ahead: U.S. Trade Policy and Developing Countries* (Washington, D.C.: Overseas Development Council, 1985).
  34. The debt crisis has exacerbated the foreign exchange problem for many developing countries. In order to earn the foreign exchange needed to satisfy debt-servicing requirements, the countries must increase their trade surpluses. The International Monetary Fund has made this a key condition for loans to debtor countries. Trade surpluses can be achieved either by increasing exports or reducing imports, almost always requiring active trade policies. Since imports can be more easily manipulated than exports, many developing countries have been forced to curtail key imports from developed countries. These actions have tended to lower economic growth rates, and they have stimulated domestic production of import substitutes. The debt crisis will thus have shaped future trading patterns between developing and developed countries long after the crisis itself has been resolved.
  35. An entire section dealing with developing countries was added to the General Agreement in 1966. This section, Part IV, laid out the basis for the special treatment of developing countries.

countries if the latter do not respond with reciprocal concessions, the General Agreement included a unilateral commitment by developed countries to reduce trade barriers to imports from developing countries.

Developing countries have played a minor role in previous rounds. They have looked to the United Nations Conference on Trade and Development, rather than GATT, to express their demands for more stability in commodity markets, for preferential treatment of their exports to developed countries, and for improved access to developed-country markets in general. Some developing countries actually fought the tariff reductions achieved by the developed countries during the Tokyo Round on the ground that lower tariffs to everyone eroded the advantages of the Generalized System of Preferences (GSP) that were applied only to imports from developing countries.<sup>36/</sup> Developing countries see GATT's acceptance of trade restrictions by developed countries on textiles and apparel, and on agricultural products such as sugar, as proof of a bias against developing countries. Consequently, most developing countries have not actively participated in previous rounds, even though this has inhibited their ability to secure tariff reductions for their exports and to influence codes of conduct for nontariff barriers to their benefit.

A New Role for Developing Countries in GATT? Developing countries, led by the newly industrializing countries, are now fully competitive in a broad range of manufactured goods markets and are sometimes the principal suppliers of such goods. They also provide important markets for the developed countries' exports. But not all developing countries have shared in this success. Increasingly, the interests of the poorer developing countries differ from those of the more successful. The latter are being drawn into the GATT system, somewhat against their will, by the force of their success in world trade. The poorer developing countries, on the other hand, still require substantial assistance and special treatment.

In principle, a key task of the Uruguay Round should be to integrate the more successful developing countries into the GATT system. Although

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36. Baldwin and Murray estimated that the significant cuts in tariffs achieved during the Tokyo Round, applied on a most-favored-nation basis, provided benefits to developing countries that far outweighed their losses from the erosion of the GSP preference advantage. The authors found, however, that this result held more strongly for newly industrializing countries than for the poorer developing countries, who were rarely restrained by GSP import limitations. See Robert E. Baldwin and Tracy Murray, "MFN Tariff Reductions and Developing Country Trade Benefits Under the GSP," *The Economic Journal*, no. 87 (March 1977), p. 30-46.